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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1250th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 4 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Seventh, eighth and ninth periodic reports of Israel (CERD/C/294/Add.1)

1. At the invitation of the Chairman, Mr. Sabel, Mr. Zaken, Mr. Galilee and Ms. Ronen (Israel) took places at the Committee table.

2. Mr. SABEL (Israel), introducing the consolidated seventh, eighth and ninth periodic reports of Israel (CERD/C/294/Add.1), said that Israel had become a party to the Convention of its own volition and had thus voluntarily undertaken to accept the Committee's monitoring. Israel, with its heterogeneous society, inevitably had its internal tensions and problems. They were presented frankly, and searching questions were expected. In the whole of the Middle East, however, it was the only State against which early warning or emergency procedures had been initiated by the Committee, which was surely cause for puzzlement. Some of the questions it had been asked raised serious doubts as to whether it was receiving fair and equal treatment - for example, whether Arabs in Israel regarded the State flag as a barrier between races. Had that question been asked of any other State? Had those States which flew the sign of the crescent been asked to explain their flag? Why had only Israel been asked to explain the relevance of the Bible's rules to its society, when the Bible was sacred to Christianity, revered by Islam and the cornerstone of European civilization? The State was further being asked to comment on statements made by clearly deranged individuals as if they were proclamations of State policy.

3. The CHAIRMAN said that the Committee treated all countries on an equal basis, and he would not allow anyone to question its credibility or that of its previous Chairmen, all of whom had conducted their work impartially. If the delegation had any criticism to make, it should indicate to whom and to what occasion it was referring. He did not think Israel had ever been treated differently from other States Parties, and when it had last come before the Committee, it had been praised for its cooperation. He hoped that cooperation would continue.

4. Mr. SABEL (Israel), recalling Israel's position with regard to the applicability of the Convention to territories under Israeli military administration, said that, as the Convention did not explicitly address the issue of territorial applicability, and article 29 of the Vienna Convention on the Law of Treaties stated that a treaty was binding on each party in respect of its entire territory, it could be presumed that the treaty was not binding beyond the national territory of the State party to it, and accordingly, Israel's obligations under the Convention, including the obligation to report on its implementation, did not appear to extend to territories under military administration which were not part of its territory.

5. There were, moreover, substantive reasons why the implementation of the Convention in the territories should remain outside the scope of the report and its consideration. A sea change had taken place in the area. Over 95 per cent of the Palestinian population in the West Bank and the Gaza Strip

now had self-government under the Palestinian Self-Governing Authority, which had legislative, administrative and judicial powers. There was a Palestinian police force and Palestinian courts administered Palestinian law. The Israeli military administration no longer administered the life of the Palestinian population. The final status of those territories was to be settled by negotiations between Israel and the Palestinian authorities. Israel, not only legally but for very practical reasons, was not in a position to report on cases of discrimination in the territories. It was not in a position to enforce any compliance with human rights norms in the territories and was therefore unable to brief the Committee on the situation.

6. Under article XIX of the 1995 Interim Agreement, Israel and the Palestinian Council were required to exercise their powers with due regard for internationally accepted norms and principles of human rights and the rule of law. Israel was, in fact, extremely concerned about certain Palestinian discriminatory practices, such as a 1997 political and legal campaign of incitement and advocacy of violent action against persons selling real estate to Israeli citizens, for the racially discriminating reason that the purchasers were Jews and Israelis. The abductions and murders in May 1997 of Palestinians who had been involved in such transactions had been given public justification by high-ranking Palestinian officials. The circumstances of the incitement and subsequent abductions and murders were flagrant violations of human rights and of civilized norms. Such incitement and licence for violence were incorporated into a proposed discriminatory Palestinian law on foreign ownership of real estate, which specifically excluded Israeli citizens. It would be very strange if Israel were to be held accountable for acts of the Palestinian Council aimed specifically at discriminating against Israel and its citizens.

7. Turning to the report and issues raised by members of the Committee, he said that Israel's character as a State of the Jewish people stood on an equal footing with its character as a democracy, with the obligation to accord all its citizens equal rights, and to prohibit racism. Thus the same provisions of the Basic Law concerning the Knesset which allowed disqualification for rejection of the existence of Israel as the State of the Jewish people also provided for disqualification of a list of candidates for Knesset elections if its platform showed clearly that it was racist or anti-democratic. It was on that basis that the Court had upheld the disqualification of the Kach party, the party of Kahana. He could confirm that a political party which advocated that Israel be designated as "The State of all its citizens" had participated in Israeli elections.

8. With regard to Israel's law of return, the right of every Jew to come and live in Israel was an integral part of the country's credo and raison d'être. Israel remembered well the lessons of the Second World War. The law of return had been promulgated to ensure that those Jews wishing to come to Israel would have an absolute right to do so. The law did not make all Jews all over the world into Israeli nationals, but granted them the right to become Israeli nationals should they so wish. The rights of an immigrant under that law were granted to all members of an eligible person's family, whether or not such relatives were themselves Jewish. In addition, a new immigrant could opt out of Israeli citizenship but retain the status of resident.

9. There was also the 1952 Nationality Law, which stipulated that citizenship could be acquired by birth, residence, a combination of birth and residence, naturalization or grant of nationality. All persons born in Israel, regardless of religion or ethnicity, were automatically citizens and enjoyed the rights deriving from citizenship, including the right to vote and be elected and the right to hold public office. All Arabs born in Israel or to Israeli nationals outside Israel acquired Israeli nationality by birth without any special formalities or requirements.

10. Israel had declared its willingness to negotiate on the issue of Arab refugees and their property, as reflected in its agreement with the Palestine Liberation Organization (PLO) and in the peace treaty with Jordan. Some 800,000 Jewish refugees had fled Arab States, leaving all their possessions behind. In all negotiations, the issue of the property of those Jewish refugees and compensation for their property had to be taken into consideration.

11. He quoted the statement by Chief Justice Barak in the Poraz case, reproduced in paragraph 21 of the report, on the importance of equality as a basic norm of democratic society. That statement epitomized Israeli society. While Israel had initially emphasized preventing public discrimination, it was now also, as set out in detail in the report, outlawing discrimination by individuals and placing increased emphasis on affirmative action. With regard to the sums spent by the Government, the present exchange rate was approximately NIS 3.6 to the United States dollar.

12. The authorities had undertaken an active policy of prosecution of all forms of racism, as evidenced by the recent conviction of Ms. Tatiana Suskin, who had drawn a poster defaming Islam. A major development in applying to individuals the rule against discrimination had been the 1995 amendment to the Equal Opportunities in Employment Act, which now included a prohibition of discrimination on grounds of national ethnic origin, country of origin, beliefs, political view, political party affiliation or age. The Law also prohibited discriminatory recruitment conditions. The amended law had thus extended to private persons and private transactions the previously existing prohibitions against discrimination in employment by public bodies.

13. The State of Israel had not been involved in any way in the erection of a shrine to Dr. Goldstein, who had murdered Palestinians at the Tomb of the Patriarchs in Hebron. People in Israel regarded him as a criminal. He was buried in a private cemetery, with no memorial other than the gravestone. The restoration of the Western Wall tunnel in Jerusalem had been undertaken to reveal archaeological finds and improve the tourism infrastructure in the Old City. It was a major contribution to the study of urban society in the time of the Muslim reign, and in any event the tunnel did not run under the Temple Mount. No archaeological or religious sites had been damaged in its construction, nor did its restoration endanger any buildings or other structures in the Old City.

14. Separate Jewish, Christian, Muslim and Armenian quarters had existed in Jerusalem for centuries, as was the custom in many Middle Eastern cities. The different communities tended to congregate around their respective holy places and also had their own customs, shops and meeting places. Israeli society saw

it as its function to ensure the coexistence of the different communities rather than abolish their separate identities. Many cities throughout the world had suburbs and quarters with a predominant population of one community or another, such as New York's Little Italy.

15. As to the residence status of Arabs living in Jerusalem, the overwhelming majority of whom were permanent residents, they could opt to become citizens, but most had not done so. So long as a person continued to live in Jerusalem, he or she could not be deprived of the right to permanent residence. A person who left Israel and did not return, even for a short visit, over a period of seven years, was deemed to have changed domicile. While payment of local taxes might provide an indication of residence, non-payment of taxes in itself did not constitute grounds for revocation of residence. The Arab population in Jerusalem continued to grow, both in absolute terms and in proportion to the city's Jewish population; from 26 per cent of the city's population in 1967, it now represented 30 per cent. And whereas the Jewish population had grown by 11 per cent since 1990, the Arab population had increased 24 per cent.

16. The claim that Israel only supported the research of Jewish sites had no basis in reality. There was complete pluralistic scientific freedom in that field, as witnessed by the variety of researchers from Israel and abroad and of sites involved. He cited the study and preservation of sites from the Mameluk, Muslim, early Christian and Crusader periods of Jerusalem and of Armenian and Byzantine chapels uncovered during road construction in the city, which had been excavated with great care and were being protected in full cooperation with the Armenian Patriarch. Leading antiquities inspectors and archaeological commissioners were from the Greek Orthodox, Muslim Arab and Druze communities. Accusations concerning archaeology were therefore strange to hear, as that was one area in which the Government enjoyed excellent ecumenical relations.

17. Out of some 2 million workers in Israel in 1996, about 95,000 had been legally employed foreigners, and there were now an estimated 100,000 illegal foreign workers, accounting altogether for about 10 per cent of the country's total workforce. Steps were being taken to address the legal and practical aspects of that problem. However, the law did not discriminate between foreign workers and resident Israeli workers. The Equal Employment Opportunity Law of 1988 expressly prohibited discrimination on the basis of nationality or land of origin in regard to granting work opportunities and determining conditions of work, and the rights guaranteed by the labour laws applied to all workers irrespective of their citizenship. Educational, welfare and health services were provided without distinction, and all workers were covered for work accidents, maternity and childbirth. Legal foreign workers were entitled to additional benefits, while illegal workers were entitled to emergency services only. The Foreign Employees (Unlawful Employment) Law 1991 set out criminal prohibitions on employers and employment agencies with respect to employment or detention of workers.

18. A pending bill was designed to compel employers to provide proper living conditions for their foreign workers, to issue all foreign workers with a copy of their employment contract in a language they understood and to provide health insurance. The bill was exceptional in that it imposed direct duties

on the employer by means of legislation. The measure stemmed from the fact that foreign workers, many of whom entered as tourists and remained illegally, were more vulnerable to exploitation. The Government was doing its best to deal on the one hand with the need to reduce the number of foreign workers, especially illegal workers, and on the other to protect them. An administrative authority had been created in 1996 to help solve problems that had arisen.

19. As to compulsory military service for Israeli Arabs, it would create obvious dilemmas, since they might find themselves in conflicts with Arabs from neighbouring countries. On the other hand, by not serving in the army, they were not participating in what was a very important aspect of the Israeli social fabric. As a compromise - albeit an imperfect one - they were therefore exempted from such service and encouraged to engage in voluntary military service. Since 1957, at the request of their community leaders, Israel Defence Force service had been mandatory for Druze and Circassian men, and the number of Bedouin joining the career army was increasing steadily.

20. Until the previous year, the families of people who had served in the army had received a higher children's allowance than those who had not served. As that had been regarded as discriminatory, the distinction had been abolished. The only remaining difference was that individuals serving three years in the army received a cash grant upon completion of service, amounting to some $200, while those who did not serve could either study or engage in gainful employment, giving them a scholastic, training or financial advantage.

21. Mr. Diaconu took the Chair.

22. Mr. ZAKEN (Israel), speaking as Adviser to the Prime Minister on Arab Affairs, a post which indicated the importance attached by the Government to relations between the communities, said that the Government had an affirmative action policy with regard to the non-Jewish sector of the population. One example of that policy was the Civil Service's practice of setting aside posts to be filled by Arab college graduates. In December 1997, the Civil Service Commission had announced 54 additional positions for Arab graduates exclusively. Other posts in the Civil Service were open to the public at large, with no differentiation between Jews and Arabs.

23. The Government was preparing plans and project outlines for 34 non-Jewish localities in the north of the country. They were designed to solve fundamental problems in the areas of planning, development, industry and planning, and testified to the Government's policy of narrowing gaps in the area of master planning. Since 1991, 36 per cent of the Arab localities had submitted plans which had been approved, as against only 28 per cent in the Jewish sector.

24. New initiatives had been introduced to improve contact and coordination between localities and government ministries. They included visits to non-Jewish areas by senior officials and district directors and the establishment of an inter-ministerial committee comprising advisers for Arab affairs and senior referees to the non-Jewish sector in the various government ministries.

25. The role of Adviser on Arab Affairs included dealing with issues related to discrimination in employment. In May 1997, an investigation into a branch of Israel's largest telephone company had been able to solve the problem of a refusal to hire Arab candidates on the ground that they had not served in the Israeli army.

26. The Office was also actively involved in trying to find conciliatory arrangements in cases of disputes between the local non-Jewish population and the State authorities and in cases of conflicts that had an ethnic/religious dimension. Such arrangements had been secured in a dispute in Tubia-Zangria and in a conflict between Muslim and Christian residents in Tur'an.

27. Local authority budgets were given in the form of a "balance grant", which constituted a balance between the income and expenditure of the local authorities. A special three-year supplement had been granted to Arab localities in the current year. For various reasons, many regional Arab councils had organizational and administrative problems. One of the difficulties they often faced was the low rate of collection of municipal taxes, which affected the council's budget and thus the balance grant from the Ministry of the Interior. A further problem in the non-Jewish sector was the multiplicity of rotation agreements in the local councils, which affected the accumulated deficit that council leaders then left to their successors. In order to assist Arab localities, the Ministry of Interior had maintained the levels of their balance grant and there had been a 40 per cent increase in the annual development budget, even though the State budget had been cut drastically. The Government ministries' investment in development budgets for the non-Jewish sector had reached NIS 432.4 million in 1996 and investments had totalled NIS 503.9 million in 1997.

28. Despite the fact that the proportion of Israeli Arabs in the student population was approximately 20 per cent, their share of the Ministry of Education's development budget exceeded 30 per cent. Between 150 and 170 classrooms were added each year. One hundred localities, 39 per cent of them in the Arab sector - which accounted for 18 per cent of the population - were benefiting from the programme implemented under the Long School Day and Enrichment Studies Law which had been in effect since January 1998.

29. The "Netivei Hagalil" highway construction company was involved in infrastructure development and road paving in Arab localities, under the auspices of the Ministry of Transport. It operated only in Arab areas and had succeeded in improving roads and pavements in non-Jewish areas. The Ministry of Communications was working, through legislation, to approve specific Arabic broadcasting channels.

30. Israel was promoting a "computer for every child" project which was targeted at children from underprivileged homes. The project had been launched first in Arab cities and it was estimated that, over five years, the project would provide computers for approximately 20,000 Arab children.

31. Mr. BANTON (Country Rapporteur) said that Israel should make every effort to engage in regular dialogue with the Committee in accordance with the

reporting cycle provided for under article 9 of the Convention, in view of the numerous problems involved in the application of the Convention to the circumstances in Israel and the occupied territories.

32. In order to save time and give Israel the opportunity fully to prepare itself for the debate with the Committee, he had prepared comments and questions for the State party (CERD/C/52/Misc.8/Rev.1) which the Secretariat had sent to the Permanent Mission of Israel, subject to three conditions. However, maybe due to a breakdown in communication, the delegation of Israel had replied to some of the issues covered in the document before the questions had been asked formally in the meeting, which had not been the purpose of the exercise. The observations made by Mr. Zaken, helpful as they had been, should have been included in the ninth periodic report, which would have left more time for dialogue between the Committee and the State party.

33. Paragraphs 2 to 4 of article 1 of the Convention listed exceptions to the definition of racial discrimination. There was no exception for words or actions that were motivated by religious belief. That observation was relevant in the case of Israel in ways that would not be relevant in many States.

34. He asked whether Arab Israelis regarded the State flag, the anthem and official State holidays as forms of barriers between races. If that was the case, how widespread was that feeling and was the Government aware that that was so? Another potential barrier was the fact that Arab citizens were not subject to compulsory military service. Did the Government encourage Bedouin and other Arab citizens to serve in the army voluntarily and was that part of any policy for the integration of non-Jewish citizens?

35. He wondered whether there was any reason to believe that the issue of building permits in Jerusalem was handled without discrimination.

36. In respect of article 4 of the Convention, he had made no statement concerning a shrine for Baruch Goldstein.

37. There were many questions regarding the conduct of soldiers and officials and how they were governed by military regulations. He had observed that their conduct could be influenced by religious law.

38. Did the 1985 amendment to the Basic Law mean that a political party which expressly aimed at equality for Jewish and Arab citizens would be unable to nominate candidates for the Knesset?

39. The Committee would welcome information on why "nationality" should be recorded on identification cards. It would also like to know why there were grounds for uncertainty as to whether the right of Palestinians to return to their lands came within the Convention.

40. The next periodic report of Israel should provide full details of whether Arab and Jewish women were equally protected by the State against violence in marriage.

41. Future reports submitted by Israel should provide information on actions taken by the Government to prevent racist propaganda from being disseminated on the Internet.

42. With regard to article 5 of the Convention, the organization B'tselem had alleged that the security forces in Hebron had forced Palestinian women between the ages of 17 and 19 to strip in front of other people. It was doubtful that the security forces would have treated Jewish women in the same way.

43. Prisoners exposed to the risk of torture were disproportionately of Arab ethnic origin. Although that matter was within the competence of the Committee, it should take no further action until the Committee against Torture had completed its investigations of the situation. Research indicated that a person of Arab origin charged with a crime, with no previous criminal record, was twice as likely to be convicted than a Jewish person in the same situation, and that sentences for Arab offenders were harsher.

44. Paragraph 19 of the report mentioned the case of Burkan v. Minister of Finance. Further information on that case and its implications in terms of racial discrimination should be provided.

45. The report did not mention any cases in which Israeli courts had accepted claims of racial discrimination and upheld the equal rights of the Arab minority. It had, however, gone into great detail on the Re'em case to illustrate the approach of the Supreme Court to the equal rights of Arabs. The Legal Centre for Arab Minority Rights in Israel (ADALAH) suggested, however, that the case re-emphasized the indifference of the courts to the group rights of the Arab minority in Israel.

46. He asked whether army service was misused as a criterion for employment or the provision of a service, who was responsible for protecting the interests of the excluded group and how often action had been taken.

47. In view of the difficulties encountered in terms of what was meant by indirect discrimination, the Committee should consider expanding General Recommendation XIV (42) by adding the following wording:

> "In considering whether a differentiation of treatment constitutes discrimination in effect, the Committee will (a) examine differentiations ostensibly based on grounds other than those listed in article 1.1 to see whether they have significant effects on the rights to be protected under the Convention; and (b) exclude any differentiation which can be justified on grounds of the inherent requirements of the position."

48. The delegation should comment on the case of Mr. Kaadan, of Arab origin, who had wanted to join a cooperative in Katsir.

49. He asked whether there was reason to believe that the Equal Opportunity in Employment Act was effectively enforced for Israeli citizens and for

non-citizens. Information was also needed on whether educational expenditure on the different communities within Israel was proportionate to the number of children of school age in those communities.

50. Referring to the right to equal participation in cultural activities, he asked whether the next report could describe measures which ensured that the antiquities policy was non-discriminatory.

51. On article 6, he pointed out that the Committee regularly asked States for details of reparations so as to be able to assess whether they were effective. Could the Committee have that information? Did the Public Complaints Commissioner report to the Knesset, and if so, to what effect?

52. Turning to the occupied territories, if the Israeli Government was unwilling in its periodic reports to cover implementation of the Convention in the occupied territories, did that not make it appropriate for the Committee to consider such questions under its procedure for the prevention of racial discrimination?

53. As to housing in the occupied territories, he pointed out that in order for Israel to be in compliance with the Convention, new housing must be made available to all would-be tenants or purchasers irrespective of ethnic origin.

54. Did not the application of residence requirements to Arabs in effect constitute discrimination?

55. Was there any discrimination in the access to highways for motorists?

56. The Arab Association for Human Rights had reported to the Committee on the many problems of unequal treatment in connection with what were called "unrecognized villages". There were no "unrecognized" Jewish villages, only Arab ones. Could the Israeli delegation comment?

57. According to the Palestinian Society on the Protection of Human Rights and the Environment, the military courts were in violation of the Fourth Geneva Convention and the rights set out in article 14 of the International Covenant on Civil and Political Rights. One of the cases cited had concerned four members of an undercover unit of the Israeli defence forces who in November 1996 had each been fined one agora, less than one US cent, for negligently causing the death in 1993 of Iyad Amali, a passenger in a car which had been stopped at a checkpoint.

58. Mr. ABOUL-NASR said that the Committee had had a very constructive exchange of views with the Ambassador of Israel at the previous session. Today, Mr. Sabel had addressed the Committee in a very aggressive manner, accusing it of statements which it had not even made.

59. First of all, what did the Israeli delegation mean by saying, at the beginning of its statement, that it had become a party to the Convention of its own volition? Did it think that other States parties had been forced to accede to that instrument? Did it believe that Israel was unique in having acceded to the Convention of its own will? The Israeli head of delegation had

suggested that it was being discriminated against and treated unfairly. Such an attitude was not at all conducive to promoting understanding in the region.

60. Much of what Mr. Sabel had said was untrue. For example, he called Israelis who had criticized the Government deranged. The Israeli Government would have done well to listen to some of the statements of the wife of the former Prime Minister.

61. With regard to the issue of the erection of a shrine to Mr. Goldstein, to which the delegation had referred, could Mr. Sabel tell the Committee what was written on that shrine and whether he considered it racist?

62. Whenever Israel made a statement, it invariably stressed that it was the only democracy surrounded by dictatorships. That was reminiscent of Israel's attitude that it was always under attack, and of its earlier statement that it had acceded to the Convention of its own volition. Israel was not the only democracy in the region; in fact, many examples could be cited to show that it was not a democracy at all. Mention had been made of the right of return. That law contained not only a humanitarian, but also a racist element. If Russian Jews were granted Israeli nationality as soon as they set foot in Israel, whereas Arabs, Muslims or Christians were refused the right to return to their own countries to reclaim their houses or farms, it was because they belonged to a different ethnic or religious group. Was that possible in a democracy? Was it democratic to deny Palestinians the right to use certain roads? Why were they not allowed to use route 60?

63. The Israeli delegation had referred to Chief Justice Barak. Was he the same judge who had ruled that the torture of Palestinians was legal? Could the Committee have a copy of the decision by tha court, issued on 15 November 1996, allowing Palestinians to be shaken so roughly that death could ensue? It was likewise difficult to see what was democratic about the daily bulldozing of Palestinian homes or the construction of a dozen new settlements in the Jerusalem area for Jews only.

64. Could the Israeli delegation inform the Committee how many Palestinians were detained in Israeli prisons without trial and for how many years? How many were women? How did that square with the principles of democracy?

65. The Israeli delegation had referred to Jerusalem as though it all belonged to Israel. That was not the opinion of the international community, which would never accept the annexation of East Jerusalem. What were Israel's borders? It occupied part of the territories of a number of neighbouring States: Lebanon, the Golan Heights, the West Bank and East Jerusalem, presumably all in the name of democracy.

66. There must be a way to accommodate the right to security and the right to peace, both of which were important and valid. The best approach was one based on mutual respect, not on claims to be the only democracy. The Committee raised criticisms about the situation in the country of every delegation that appeared before it; the Israeli delegation should not feel that it was being singled out.

67. Mr. RECHETOV was pleased that the Committee was developing a useful dialogue with the Israeli Government. Israel's future would depend on how the problem of relations between the Jewish and Arab parts of the population was resolved. He agreed with Mr. Banton that it would be necessary for Israel to decide which element was more important, the democratic or the ethnic one.

68. Turning to the ninth report, he was struck by a remark towards the end of paragraph 27 on the "need for tolerance towards the speaker of a foreign language". What foreign language was that? If it was Arabic, then the assertion at the beginning of paragraph 27 that Arabic was "an official language of the State" was clearly meaningless. He also sought clarification on the statement in the middle of that same paragraph that "one should not obstruct the progress of someone who wishes to legally advance the exclusive imposition of the Hebrew language in our lives", which to his mind was an understanding of freedom of speech that was so broad as to be inconsistent with the Convention, for such a goal could only be achieved by prohibiting others from speaking their own mother tongue.

69. The section of the ninth report beginning with paragraph 33 was entitled "affirmative action", which was misleading, because it did not describe measures to assist Ethiopians per se, but only Ethiopian Jews. That the Israeli Government took a variety of steps to help Jewish immigrants from all countries was common knowledge.

70. With regard to paragraph 50, he sought further clarification on how the "external security situation" could have an adverse effect on the socio-economic conditions of the Arab population.

71. Paragraph 55 stated that the Arab school system used Arabic as the language of instruction, as did teacher-training colleges associated with the Arab school system, whereas universities, post-secondary level colleges and specialized technical schools were fully integrated. Did that mean that at university level, the only language used was Hebrew, to the detriment of Arabic?

72. What was the current Israeli policy with regard to former Soviet citizens who wanted to have dual Israeli-Russian citizenship? He had read in the press that certain influential persons in the Russian Federation had Israeli citizenship as well. Had Israeli practice changed to allow Russian immigrants to have dual citizenship, or was that an exception granted only to wealthy individuals?

73. In closing, he assured the Israeli delegation that the Committee put the same kinds of questions to all State parties which appeared before it and that it looked forward to continued constructive dialogue with Israel in a spirit of goodwill.

74. Mr. de GOUTTES said that he had the impression that with the arrival of the Israeli delegation in the Committee, the atmosphere had become more charged and tense. It was up to everyone present to maintain a spirit of dialogue and objectivity. Like other members, he had been somewhat surprised

by the tone in which the Israeli delegation had begun its oral presentation, apparently accusing the Committee of treating it more harshly than others. That was unfounded.

75. Concerning the occupied territories, Mr. Sabel had asserted that Israel was no longer in a position to ensure that human rights were protected there, that Palestinian law was now in force in the occupied territories, and that Israel considered that the Convention was not applicable there. That statement was inconsistent with the opinion expressed in the Committee's decision 1 (51), adopted at its 1236th meeting on 18 August 1997.

76. Paragraphs 50 et seq. of the report contained a frank acknowledgement of the gap between the Jewish majority and the Arab minority in terms of living standards and involvement in national affairs, with corroborative statistics on life expectancy, schooling and judicial convictions. He was surprised by the statement that the discrepancy was partly attributable to the fact that Arabs were not conscripted and hence were denied involvement in a vital element of Israeli society. Was he justified in drawing the inference that the armed forces played a vital role in social promotion?

77. A somewhat idyllic picture was presented of Arab advancement policies in education, health, housing, culture, sport and social protection. The Committee generally based its assessment of the circumstances and degree of integration of minorities on such socio-economic indicators as school enrolment ratios, employment rates, access to public service and social services, crime and imprisonment statistics and mortality and morbidity ratios. What special measures of affirmative action had been taken to bridge the gap between the majority and minority communities? How many Arabs worked in ministries or held high-ranking posts in the civil service?

78. Had action been taken to compensate Arabs who had been expropriated or whose homes had been destroyed? Was it true that Arabs in the occupied territories were subject to special legislation and military courts which, according to Amnesty International's latest report, failed to respect international norms and minimum standards for a fair trial?

79. He requested statistics on complaints, legal proceedings and sentences relating to acts of racial or ethnic discrimination and decisions regarding reparations or compensation on behalf of the victims of such acts, primarily Arab victims but also Israelis.

80. While the information on Supreme Court decisions provided in paragraphs 14 et seq. was useful and significant, the Committee would appreciate more information on the attitude of the police authorities and the Attorney-General's Office and on decisions of courts of first instance in cases of racial discrimination.

81. Mr. van BOVEN said he was somewhat surprised that the delegation had been provided with the Country Rapporteur's questions in advance. That was not the Committee's normal practice and it placed the delegation in a privileged position. He regretted that the Committee had not received either the report or relevant NGO material in time to give them the in-depth consideration they deserved.

82. He associated himself fully with the comments of the Country Rapporteur. He feared that any exchange on the issue of the applicability of international treaties to the occupied territories would yet again prove to be a dialogue of the deaf. As Israel had refused for over 30 years to recognize the applicability of the 1949 Geneva Convention and various human rights instruments to the occupied territories, he wondered about the degree of international accountability for a situation which placed the population concerned in very vulnerable circumstances. The Committee disagreed with the delegation's argument that treaties were not binding beyond a country's territorial jurisdiction. There was a strong parallel in a recent judgement by the European Court of Human Rights, which had found against Turkey in a case brought by a Greek-Cypriot owner of immovable property in northern Cyprus concerning violation of the European Convention on Human Rights by the Turkish armed forces. Turkey's argument that it had no jurisdiction in northern Cyprus had been dismissed by the Court. The prevailing human rights doctrine was that a State was responsible for actions in a territory under its control. In the case now under consideration, it had been argued that the situation was under the control of the Palestinian Authority but, regardless of the validity or otherwise of that argument, it failed to address the issue of the Jewish settlements in the occupied territories. The status of the settlements was clearly inconsistent with article 3 of the Convention which, as noted in the Committee's General Recommendation XIX, prohibited all forms of racial segregation in all countries. There was a consensus among publicists that the prohibition of racial discrimination, irrespective of territories, was an imperative norm of international law.

83. Referring to paragraph 16 of the report, he asked whether it was true that the Kach and Kahana Chai terrorist organizations still existed, perhaps under another name. The Committee would appreciate further information on action taken against such organizations.

84. He was unhappy with the structure of the report. Did the section under the heading "affirmative action" include all paragraphs from 33 to 100?

85. Observing that the Committee had taken up the issue of anti-Semitism in its dealings with many States parties, he stressed the relevance of the Convention to victimized and disadvantaged non-Jewish groups in Israel and the occupied territories. Referring to NGO material on housing and settlement rights, he inquired about the status of some 60,000 Arabs living in villages that were not officially recognized or shown on maps. Was it true that all structures in those communities were viewed as illegal buildings subject to demolition? What was being done to resolve the issue in a just and equitable manner? Some 110,000 Arab Bedouin lived in 43 recognized and unrecognized settlements in the Negev Desert. Was it true that the authorities had removed some of the Bedouin from their traditional lands and forced them into Government-planned townships that were incompatible with their customs and lifestyles?

86. Some of the roughly 200,000 Palestinians displaced within Israel since the events of 1948 had sought to recover their property but most requests had been rejected by the Supreme Court. What type of compensation had they received and had they been offered alternative housing and settlement facilities?

87. Mr. LECHUGA HEVIA, referring to paragraph 8 of the report concerning the amendment to "Basic Law: The Knesset" which prevented racist movements from running for election, said that article 4 required States parties, in addition, to declare all dissemination of racist ideas an offence punishable by law and to disband racist organizations.

88. Paragraph 14 reported the case of a person convicted for writing an article justifying the killing of non-Jews. In what publication had the article appeared and had the publishers been punished? Paragraph 17 stated that holders of concessions for cable television must not transmit any broadcast containing racial incitement. Did the same rule apply to press material?

89. Paragraph 30 acknowledged that there was no clear Supreme Court decision in support of the norms prohibiting discrimination in private transactions. That omission obviously encouraged discriminatory acts in the private sector. According to paragraph 31, the 1995 Amendment to the Equal Opportunity in Employment Law 1988 prohibited discrimination by an employer with a staff of six or more persons. The implication seemed to be that an employer with fewer than six employees was free to practise discrimination.

90. Was it true that the "Basic Law: Human Liberty and Honour" failed to mention the right to equality and stressed the ethnicity of the State of Israel, thereby depriving the Arab minority of constitutional protection against discrimination?

91. He asked the delegation to comment on reports that the Government's land use plan for 1998 provided for the building of 23,000 dwelling units, none of which would be located in Arab villages.

92. Arabs with a criminal record were allegedly twice as likely to be convicted by a court than Jews. According to a study undertaken in 1990 by the Department of Criminology of the Hebrew University, 30 per cent of young Arabs, compared with only 2 per cent of young Jews, received custodial sentences. In 1993, 80 per cent of young persons in custody were Arabs.

93. No academic institution existed to preserve and promote the Arabic language in Israel. Although Arabs constituted 18 per cent of the population, there was no Arabic-language university in Israel.

94. Mr. VALENCIA RODRIGUEZ agreed with Mr. Lechuga Hevia that article 4 required the disbandment of such movements as Kach and Kahana Chai and the punishment of their leaders and participants.

95. What practical results had followed the entry into force of the 1995 Amendment to the Equal Opportunity in Employment Law 1988 which introduced a prohibition on various kinds of discrimination?

96. The definition of racism in Section 144A of the Penal Law, 1977, as amended in 1986 and 1992, was not consistent with that contained in article 1 of the Convention. Paragraph 29 acknowledged that the outlawing of discrimination by individuals against each other had developed slowly. He urged the Government of Israel to step up action in that area to ensure

balanced progress in the fight against racial discrimination. He welcomed the affirmative action on behalf of minority groups, particularly Ethiopian Jews and Arabs, described in the report. He trusted that the Government would keep the Committee informed of progress in that area with respect to all minorities. There was very little information in the report on the implementation of article 5.

97. With regard to article 6, it was recognized that an impartial and independent judicial system was the main bulwark of the individual against acts of racial discrimination. He stressed the importance of the office of Public Complaints Commissioner and suggested that it should be reinforced in the future. He asked for additional information on the Commissioner's work and on specific court cases.

98. Mr. ABOUL-NASR requested the delegation to provide the Committee with a map of Israel at the following meeting.

The meeting rose at 6 p.m.